

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:)
)
CIRCUIT CITY STORES, INC., et al.,) Case No. 08-35653-KRH
) Chapter 11
Debtors.) (Jointly Administered)

**VERTIS, INC.'S RESPONSE TO DEBTORS' EIGHTH
OMNIBUS OBJECTION TO CERTAIN LATE CLAIMS**

Vertis, Inc. ("Vertis"), through its undersigned counsel, hereby responds as follows to Debtors' Eighth Omnibus Objection to Certain Late Claims:

1. In its bankruptcy Schedule F, Circuit City Stores, Inc. ("Debtor") identified Vertis as having two separate claims of \$5,498.50 and \$8,400.00. The claims were not scheduled as being contingent, unliquidated or disputed. Thus, Vertis has a deemed allowed claim of \$13,898.50 pursuant to Fed. R. Bankr. P. 3003(b)(1).
2. On December 11, 2008, this Court entered an Order establishing January 30, 2009 as the bar date for filing proofs of claim in this matter. Vertis received timely notice of the bar date.
3. On January 29, 2009, Vertis' counsel, John Cruciani, finalized and signed Vertis' unsecured, non-priority proof of claim in the amount of \$47,363.50 and instructed his paralegal to send it out for filing. The paralegal, in turn, gave the proof of claim to her secretary with specific instructions that the proof of claim be sent out via overnight mail.
4. Unfortunately, the claim was mailed instead of being sent via overnight mail.

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5. The proof of claim was received on February 3, 2009, by Kurtzman Carson Consultants ("KCC") (Claim No. 10903).

6. Upon receipt of the file-stamped proof of claim from KCC, Mr. Cruciani realized the inadvertent error that had occurred. He promptly contacted the Debtor on February 10, 2009, to see if the Debtor would be willing to consent to the filing of a motion to allow the late filed claim as timely filed for Vertis. The Debtor responded that it was extremely busy at the time and could not guarantee how quickly a response would be made.

7. That same day (February 10), Mr. Cruciani also contacted counsel for the Creditors Committee to explain what had occurred. On February 23, 2009, the Committee's counsel responded saying that they would defer to the Debtor on the issue.

8. Subsequently, Mr. Cruciani has made various inquiries with Debtor's counsel seeking to know if the Debtor would consent to the filing of a motion to have the claim deemed timely filed. The Debtor did not respond to these inquiries.

9. On April 10, 2009, Vertis filed a Motion to Allow Proof of Claim to be Deemed Timely Filed (Docket No. 2989), wherein it sought to have its proof of claim deemed timely filed pursuant to Fed. R. Bankr. P. 2002(c)(3) and 9006(b).

10. The hearing on Vertis' motion was originally scheduled for April 28, 2009. *See* Docket No. 2990. However, through a series of continuances, the hearing on the matter is now set for July 23, 2009. *See* Docket Nos. 3190, 3347, 3446, 3549 and 3757.

11. Through their Eighth Omnibus Objection to Certain Late Claims, the Debtors seek the disallowance of Vertis' claim which was filed after the general bar date.

12. A resolution of the Debtors' Eighth Omnibus Objection regarding Vertis' claim directly hinges upon the Court's ruling on Vertis' currently pending motion. If Vertis' motion is granted then the Debtor's objection must be denied.

WHEREFORE, Vertis requests that this Court forbear from ruling on the Debtors' Eighth Omnibus Objection until such time as this Court has ruled on Vertis' April 10, 2009 motion, and for such further relief that this Court deems just and equitable.

Dated: June 29, 2009

VERTIS, INC.

By: /s/ Michael P. Falzone
Counsel

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Declaration of John J. Cruciani, Esq.

Mr. John J. Cruciani, Esq. states as follows:

I serve as co-counsel for Vertis, Inc. With respect to the factual allegations contained in the foregoing Response, I have personal knowledge of such facts and represent that such allegations are true and accurate to the best of my knowledge, information and belief.

Dated: June 29, 2009

By:

John J. Cruciani, Esq.

Title: Counsel for Vertis, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2009, a true and correct copy of the above and foregoing was served by the method or methods specified below:

X by electronically filing it with the Court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

/s/ Michael P. Falzone

Michael P. Falzone

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